

Notice of Allowability	Application No.	Applicant(s)	
	10/633,579	GERLACH ET AL.	
	Examiner	Art Unit	
	Zinna Northington Davis	1625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendments filed 8/5/03 and 4/13/05 & Communication filed 7/20/04.
2. ☒ The allowed claim(s) is/are 19-36 (now renumbered as 1-18, respectively).
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 10/117,335.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |


REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

1. Claims 19-36 are pending. The Preliminary Amendment filed on August 5, 2003 canceled claims 1-18. Accordingly, all the rejections in the Office Action mailed May 18, 2004 are moot since they pertain only to claims, which have already been cancelled.
2. In the Office Action mailed May 18, 2004, claims 19-36 are distinct from the subject matter claimed in the claims of US Patent 6,657,064. In the '064 Patent, X denotes S, whereas in the claims of the instant application, X denotes CR⁵ or N.
3. In the Office Action mailed May 18, 2004, the rejections are not maintained because the prior art discloses compounds wherein X denotes S, whereas in the claims of the instant application, X denotes CR⁵ or N. There is neither teaching nor suggestion to modify the prior art compounds to derive those instantly claimed.
4. The Information Disclosure Statement filed August 5, 2003 has been considered. The closest prior art is Reference AR. The compounds have been excluded by proviso. The prior references alone or in combination forms do not teach nor suggest structurally similar compounds as those instantly claimed. Accordingly, the claims are allowed.
5. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 1625

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zinna N. Davis whose telephone number is 571-272-0682.


Zinna Northington Davis
Primary Examiner
Group 1600-AU 1625

Znd
4.13.2005